

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

STACEY MILLER,

Defendant.

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ORDER

01-cr-71-bbc

On December 23, 2009, defendant Stacey Miller wrote a letter to the court asking it to consider resentencing him based upon the unwarranted disparity between powder and crack cocaine sentences and the progress he has made in prison. I construed defendant's letter as a motion pursuant to 18 U.S.C § 3582 and denied it because defendant was sentenced as a career offender and thus is not entitled to a reduction under 18 U.S.C. 3582 and Amendments 706 and 711 to the sentencing guidelines.

Now, defendant has written again to the court, stating that he never intended his December 23, 2009 letter to be a motion under 18 U.S.C. § 3582. Instead, he asks the court to "use its discretion to re-sentence me" and vacate the court's January 4, 2010 order denying his § 3582 motion. As I told defendant on a previous occasion, this court has no

authority to reduce his sentence. Once a court imposes a sentence, it loses jurisdiction to make any changes in the sentence except in two specific circumstances: (1) if the United States Government moves for a reduction in recognition of substantial assistance that the defendant has provided; or (2) if the court of appeals reverses defendant's conviction. Neither of these things has happened in this case, so defendant's motion must be denied. Despite the fact that his request came in a letter format, the relief he was seeking was properly construed as a motion. In any event, that construction will not prejudice him in the future.

#### ORDER

IT IS ORDERED that defendant Stacey Miller's motion to modify his sentence is DENIED on the ground that the court lacks the authority to grant the relief requested. His

motion to vacate the order of January 4, 2010 is DENIED as necessary.

Entered this 15th day of January, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge